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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/695,824

10/30/2003

Kunio Yata

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EXAMINER

HERNANDEZ, NELSON D

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

07/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/695,824

Applicant(s)

YATA, KUNIO

Examiner

Nelson D. Hernandez

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2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The Examiner acknowledges the amended claims filed on April 24, 2007.

Claims 1 and 2 have been amended. **Claims 4-15** have been newly added.

Response to Arguments

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaneda et al., US Patent 5,629,735.**

Regarding claim 1, this claim is written in a Markush type by using the expression "a modification device which modifies at least one of a range of *the focus area* and *the viewing area* of the camera", meeting one species of a genus family anticipates the claimed subject matter. "A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus." The

species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

Kaneda et al. discloses an auto focus system (Fig. 8), comprising: an auto focus device (Logic Control Device 46 in conjunction with Focus Driving Circuit 36 as shown in fig. 8) which acquires a focus evaluation value indicating a degree of sharpness of an object image in a predetermined focus area set up within a viewing area according to a picture signal obtained from a camera (Sensor 33 as shown in fig. 8), controls a focus of a taking lens (31 as shown in fig. 8) so that the focus evaluation value indicates a best focus (Col. 12, line 22 – col. 13, line 12; col. 14, line 30 – col. 16, line 62), and automatically focuses on a major object in the focus area; a filter device (Fig. 8: 42) which extracts a signal of a high-frequency component from the picture signal; a major object position determination device (Logic Control Device 46 determined the position of a focus detecting area to be displayed in the monitor 50; col. 14, line 66 – col. 15, line 6; col. 15, line 55 – col. 16, line 8) which determines a position on the viewing area of the major object focused by the auto focus device by obtaining from the filter device signals of the high-frequency components corresponding to a first image picked up by the camera and a second image picked up by the camera after passage of a predetermined time from picking up the first image (Kaneda et al. discloses that the reposition of the focus detecting area is based on a comparison of a present information related to a peak of high frequency component to a previous image information related to a peak of high frequency component; col. 15, line 64 – col. 16, line 8; Kaneda et al. also discloses

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that the comparison between the peaks can be performed between consecutive fields (col. 10, lines 22-64) as well as comparing to an average of a given number of past fields (col. 15, line 64 – col. 16, line 8). By teaching comparing an actual image to past images, Kaneda et al. discloses that the second image is picked up by the camera after passage of a predetermined time from picking up the first image); and a modification device (the Logic Control Device 46 modifies the position of the focus detecting area to an actual position based on the movement detected comparing the peak position on consecutive image captured; col. 15, line 64 – col. 16, line 8) which modifies at least one of a range of the focus area and the viewing area of the camera so that the focus area includes the position of the major object determined by the major object position determination device (Col. 12, line 22 – col. 13, line 12; col. 14, line 30 – col. 16, line 62; col. 10, lines 22-64).

Regarding claim 2, limitations can be found in claim 1.

Regarding claim 3, Kaneda et al. discloses that the modification device displaces the at least one of the range of the focus area and the viewing area of the camera by the shift amount acquired by the major object position determination device (Kaneda et al. discloses that the reposition of the focus detecting area is based on the coordinates of the peak position of the high frequency components, where the comparison of the peak position of a present field to the peak position of past fields determine the new position. This teaches obtaining a shift amount to reposition the focus detecting area; col. 12, line 22 – col. 13, line 12; col. 14, line 30 – col. 16, line 62).

Regarding claim 4, Kaneda et al. discloses an auto focus system (Fig. 8), comprising: an auto focus device (Logic Control Device 46 in conjunction with Focus Driving Circuit 36 as shown in fig. 8) configured to control the focus of a lens to automatically focus on a major object in a focus area within a viewing area of a camera (Col. 12, line 22 – col. 13, line 12; col. 14, line 30 – col. 16, line 62); a major object position determination device (Logic Control Device 46 determined the position of a focus detecting area to be displayed in the monitor 50; col. 14, line 66 – col. 15, line 6; col. 15, line 55 – col. 16, line 8) configured to determine the position of the major object based on first and second images, the second image being taken at a later time than the first image (Kaneda et al. discloses that the reposition of the focus detecting area is based on a comparison of a present information related to a peak of high frequency component to a previous image information related to a peak of high frequency component; col. 15, line 64 – col. 16, line 8; Kaneda et al. also discloses that the comparison between the peaks can be performed between consecutive fields (col. 10, lines 22-64) as well as comparing to an average of a given number of past fields (col. 15, line 64 – col. 16, line 8). By teaching comparing an actual image to past images, Kaneda et al. discloses that the second image is picked up by the camera after passage of a predetermined time from picking up the first image); and a modification device (the Logic Control Device 46 modifies the position of the focus detecting area to an actual position based on the movement detected comparing the peak position on consecutive image captured; col. 15, line 64 – col. 16, line 8) configured to adjust the focus area to include the position of the major object determined by the major object position

determination device (Col. 12, line 22 – col. 13, line 12; col. 14, line 30 – col. 16, line 62; col. 10, lines 22-64).

Regarding claim 5, Kaneda et al. discloses that the auto focus device is configured to control the focus of the lens by using a focus evaluation value (Col. 15, lines 12-33).

Regarding claim 6, Kaneda et al. discloses that the focus evaluation value corresponds with a degree of sharpness of the focus area within the viewing area of the camera (Col. 14, line 50 – col. 15, line 33).

Regarding claim 7, Kaneda et al. discloses a filter device (Fig. 8: 42) configured to extract first and second high-frequency component signals from first and second picture signals of the first and second images, respectively (Col. 12, line 22 – col. 13, line 12; col. 14, line 30 – col. 16, line 62).

Regarding claim 8, Kaneda et al. discloses that the major object position determination device is configured to determine the position of the major object based on first and second images by comparing the first and second high-frequency component signals to acquire a major object position shift amount (Logic Control Device 46 determined the position of a focus detecting area to be displayed in the monitor 50; col. 14, line 66 – col. 15, line 6; col. 15, line 55 – col. 16, line 8) configured to determine the position of the major object based on first and second images, the second image being taken at a later time than the first image (Kaneda et al. discloses that the reposition of the focus detecting area is based on a comparison of a present information related to a peak of high frequency component to a previous image information related

to a peak of high frequency component; col. 15, line 64 – col. 16, line 8; Kaneda et al. also discloses that the comparison between the peaks can be performed between consecutive fields (col. 10, lines 22-64) as well as comparing to an average of a given number of past fields (col. 15, line 64 – col. 16, line 8)).

Regarding claim 9, this claim is written in a Markush type by using the expression “by displacing at least one of a range of *the focus area* and *the viewing area* of the camera”, meeting one species of a genus family anticipates the claimed subject matter. “A generic claim cannot be allowed to an applicant if the prior art discloses a species falling within the claimed genus.” The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

Kaneda et al. discloses that the modification device is configured to adjust the focus area to include the position of the major object determined by the major object position determination device by displacing at least one of a range of the focus area and the viewing area of the camera by the major object position shift amount (the Logic Control Device 46 modifies the position of the focus detecting area to an actual position based on the movement detected comparing the peak position on consecutive image captured; col. 15, line 64 – col. 16, line 8).

Regarding claim 10, this claim is written in a Markush type by using the expression “by modifying at least one of a range of *the focus area* and *the viewing area* of the camera”, meeting one species of a genus family anticipates the claimed subject matter. “A generic claim cannot be allowed to an applicant if the prior art

discloses a species falling within the claimed genus.” The species in that case will anticipate the genus. In re Slayter, 276 F.2d 408, 411, 125 USPQ 345, 347 (CCPA 1960); In re Gosteli, 872 F.2d 1008, 10 USPQ2d 1614 (Fed. Cir. 1989).

Kaneda et al. discloses that the modification device is configured to adjust the focus area to include the position of the major object determined by the major object position determination device by modifying at least one of a range of the focus area and the viewing area of the camera (the Logic Control Device 46 modifies the position of the focus detecting area to an actual position based on the movement detected comparing the peak position on consecutive image captured; col. 15, line 64 – col. 16, line 8).

Regarding claim 11, claim 11 is a method claim of the apparatus in claims 1 and 4. Kaneda et al. discloses the same as in claims 1 and 4.

Regarding claim 12, limitations can be found in claims 4 and 5.

Regarding claim 13, limitations can be found in claims 1, 7 and 8.

Regarding claim 14, limitations can be found in claim 9.

Regarding claim 15, limitations can be found in claim 10.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernandez whose telephone number is (571) 272-7311. The examiner can normally be reached on 9:30 A.M. to 6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nelson D. Hernandez
Examiner
Art Unit 2622

NDHH
July 16, 2007



LIN YE
SPE. ART UNIT 2622